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Macroeconomic policy questions: promotion of international cooperation to combat illicit financial flows in order to foster sustainable development

Ecuador* draft resolution

Promotion of international cooperation to combat illicit financial flows in order to foster sustainable development

The General Assembly,

Guided by the purposes and principles enshrined in the Charter of the United Nations,

Recalling its resolution 71/213 of 21 December 2016,

Reiterating its deep concern about the impact of illicit financial flows, in particular those caused by tax evasion, corruption and transnational organized crime, on the economic, social and political stability and development of societies, and especially on developing countries,

Noting that a large proportion of the proceeds of corruption, including those emanating from transnational bribery and other forms of illicit flows, has yet to be returned to requesting States with a view to, inter alia, returning such property to the prior legitimate owners, and stressing that the recovery and return of illicit assets to requesting States will enhance the implementation of the 2030 Agenda for Sustainable Development,[1]

Noting with concern the steady increase in funds of illicit origin flowing from developing countries in particular and the danger that such increase poses to sustainable development and the rule of law,

Noting that developing countries are those which are the most susceptible to the negative impact of illicit financial flows,

* On behalf of the States Members of the United Nations that are members of the Group of 77 and China.

[1] Resolution 70/1.

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Recognizing the challenge posed by the increasing scope and complexity of illicit financial flows and the slow pace of the process of recovering and returning assets, which necessitates the strengthening of international cooperation on this matter, taking into account the pertinent provisions of the United Nations Convention against Corruption,[2]

Stressing that the non-repatriation of illicit financial flows from destination countries to source countries in a timely and collaborative manner undermines the right to development, as it deprives developing countries of resources required for them to progressively achieve sustainable development and implement social and economic investment programmes aimed at eradicating poverty,

Reaffirming its resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development", in which it adopted a comprehensive, far-reaching and people-centred set of universal and transformative Sustainable Development Goals and targets, its commitment to working tirelessly for the full implementation of the Agenda by 2030, its recognition that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development, its commitment to achieving sustainable development in its three dimensions — economic, social and environmental — in a balanced and integrated manner, and to building upon the achievements of the Millennium Development Goals and seeking to address their unfinished business,

Reaffirming also its resolution 69/313 of 27 July 2015 on the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, which is an integral part of the 2030 Agenda for Sustainable Development, supports and complements it, helps to contextualize its means of implementation targets with concrete policies and actions, and reaffirms the strong political commitment to address the challenge of financing and creating an enabling environment at all levels for sustainable development in the spirit of global partnership and solidarity,

Welcoming the United Nations Convention against Corruption, which is the most comprehensive and universal instrument on corruption, and recognizing the need to continue to promote its ratification or accession thereto and its full and effective implementation, including full support for the Mechanism for the Review of Implementation of the Convention,

Recalling its resolution 60/207 of 22 December 2005 on preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption,

Recalling also its resolutions 69/199 of 18 December 2014 and 71/208 of 19 December 2016 on preventing and combating corrupt practices and the transfer of proceeds of corruption, facilitating asset recovery and returning such assets to legitimate owners, in particular to countries of origin, in accordance with the United Nations Convention against Corruption,

Noting with appreciation the ongoing efforts by regional organizations and other relevant international forums to strengthen cooperation in combating illicit financial flows, particularly those caused by tax evasion, corruption and transnational organized crime,

Recognizing the need to scale up the level of cooperation to curb illicit financial flows and recover the proceeds of crime, including embezzled public

[2] United Nations, *Treaty Series*, vol. 2349, No. 42146.

funds, stolen assets and unaccounted-for assets that are found in safe havens, and to demonstrate a strong commitment to ensuring the return of such assets to the countries of origin,

Commending the report of the High-level Panel on Illicit Financial Flows from Africa for its ground-breaking role in increasing knowledge on the scourge of illicit financial flows, and reiterating its invitation to other regions to carry out similar exercises,

Taking note of the 2017 report of the Inter-Agency Task Force on Financing for Development,[3]

Recognizing the efforts of the Group of 20 in combating illicit financial flows and countering corruption at both the global and national levels, taking note with appreciation of the anti-corruption initiatives outlined in the Group of 20 Hangzhou Summit communiqué,[4] and urging the Group of 20 to continue to engage other Member States and the United Nations Office on Drugs and Crime in its work in an inclusive and transparent manner to ensure that Group of 20 initiatives complement or strengthen the work being undertaken by the United Nations system,

Stressing the importance of inclusiveness within the United Nations development system and that no country and no one is left behind in the implementation of the present resolution,

1. *Welcomes* the inclusion in the 2030 Agenda for Sustainable Development[1] of, inter alia, the target related to combating illicit financial flows and strengthening the recovery and return of stolen assets, recalls that the Sustainable Development Goals and associated targets are integrated and indivisible and balance the three dimensions of sustainable development, and, in this regard, looks forward to their achievement;

2. *Also welcomes* the inclusion in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development[5] of actions intended to combat illicit financial flows and strengthen the recovery and return of stolen assets, and in this regard looks forward to their implementation;

3. *Further welcomes* efforts to broaden knowledge and share best practices on combating illicit financial flows and enhancing asset recovery to foster sustainable development by Member States, particularly those related to the initiatives of Ethiopia and Switzerland and of Nigeria and Norway;

4. *Urges* States parties, while pursuing settlements and other alternative legal mechanisms, to proactively share information in accordance with article 46, paragraph 4, article 48, paragraph 1 (f), and article 56 of the United Nations Convention against Corruption[2] and involve countries of origin early in the process;

5. *Urges* States parties that are pursuing settlements and other alternative legal mechanisms in transnational bribery cases to afford the countries of origin the widest measure of cooperation and assistance;

6. *Urges* Member States that have not yet done so to consider ratifying or acceding to the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime and the Protocols

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[3] *Financing for Development: Progress and Prospects* (United Nations publication, Sales No. E.17.I.5).

[4] A/71/380, annex.

[5] Resolution 69/313, annex.

thereto,[6] and also urges States parties to those conventions and protocols to make efforts towards their effective implementation;

7. *Calls upon* the relevant organizations of the United Nations system, within their respective mandates and resources, to ensure that no country and no one is left behind in the implementation of the present resolution;

8. *Urges* developed countries and multilateral and international organizations to provide, upon request, technical assistance and capacity-building assistance to developing countries to improve their capacity to combat illicit financial flows and enhance the return of stolen assets;

9. *Urges* Member States, consistent with domestic legal systems, to encourage the simplification of evidentiary requirements and other mutual legal assistance procedures to enhance international cooperation in the recovery of stolen assets;

10. *Notes with concern* that only a small portion of frozen assets is returned to the countries of origin, in that regard calls upon Member States to ensure that illicit financial flows, when tracked, are dealt with in accordance with their national legal systems and relevant international legal obligations with the aim of returning frozen assets to the requesting States, and invites Member States to consider options, such as the possibility of transferring frozen assets to escrow accounts pending their return to requesting States;

11. *Calls upon* Member States to consider the possibility of waiving or reducing to the barest minimum the processes for and costs of recovering stolen assets, in particular by reducing the administrative and legal obstacles to their effective recovery;

12. *Recognizes* that the range of issues related to illicit financial flows, including abusive transfer pricing, trade mis-invoicing, tax evasion, aggressive tax avoidance, double taxation, harmful tax incentives, unfair contracts, financial secrecy, money-laundering, smuggling, trafficking and abuse of entrusted power and their interrelationships, makes it a technically complex subject, while stressing, however, that success in addressing illicit financial flows and strengthening the recovery and return of stolen assets is also an issue of political will and that the nature of actors, the cross-border character of the phenomenon and the effect of illicit financial flows on state and society require a global consensus and a concerted political response;

13. *Urges* States parties, in accordance with article 13 of the United Nations Convention against Corruption, to take appropriate measures, within their means and in accordance with the fundamental principles of their domestic laws, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence of, the causes and gravity of and the threat posed by corruption, and encourages States parties to enhance the capacity of such individuals and groups in this regard;

14. *Requests* the President of General Assembly to convene a conference on illicit financial flows and asset recovery in the first quarter of 2018 with the objective of deliberating on what concrete actions should be taken to strengthen international cooperation and to consider possible follow-up steps in this regard, including the possibility of establishing mechanisms on the very important issue of

[6] United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

illicit financial flows and the recovery and return of stolen assets, while recognizing that any decision on follow-up steps should be made by consensus;

15. *Decides* to give consideration, as appropriate, to combating illicit financial flows and strengthening of recovery and return of stolen assets in the follow-up and review framework of the 2030 Agenda for Sustainable Development and in the follow-up process of the Addis Ababa Action Agenda;

16. *Calls for* greater international cooperation to combat illicit financial flows and enhance asset recovery, and calls upon States parties to pledge to deter, detect, prevent and counter corruption and crime and to increase transparency and promote good governance, which contribute to fostering sustainable development;

17. *Expresses* its support for the efforts of the United Nations Office on Drugs and Crime, in coordination with the United Nations Conference on Trade and Development and other institutions, to develop a methodology to produce an estimate of the total value of inward and outward illicit financial flows, and calls upon the Office to inform Member States as to the stage of that work;

18. *Encourages* the Bank for International Settlements to provide relevant data on international banking assets by country of origin and destination in more accessible formats, such as along the lines of the data published by the International Monetary Fund for bilateral trade, foreign direct investment and portfolio investment, so that the data can be used to inform the analysis of illicit financial flows;

19. *Urges* States parties that are using settlements and other alternative legal mechanisms to resolve cases related to transnational bribery to ensure that the new mechanisms do not hinder the process of international cooperation on asset recovery or jeopardize the implementation of chapter V of the United Nations Convention against Corruption;

20. *Invites* Member States to sustain dialogue and take necessary action to combat illicit financial flows and enhance asset recovery;

21. *Calls upon* Member States to consider establishing or strengthening the independent institutions and agencies of government responsible for preventing illicit financial flows and strengthening asset recovery, in accordance with their national legal systems, national plans and priorities and relevant international legal obligations;

22. *Looks forward* to the inclusion, in the 2018 report of the Inter-Agency Task Force on Financing for Development, of an analysis of the theme of the present resolution, pursuant to the mandate of the Task Force, and also looks forward to the deliberations of the Economic and Social Council forum on financing for development follow-up;

23. *Requests* the Secretary-General to report to the General Assembly at its seventy-third session on the progress made in the implementation of the present resolution;

24. *Decides* to include in the provisional agenda of its seventy-third session, under the item entitled "Macroeconomic policy questions", a sub-item entitled "Promotion of international cooperation to combat illicit financial flows and strengthen asset recovery in order to foster sustainable development".